

Janet Napolitano
Governor

Robert J. Maynard, O.D.
President

Robert B. Pinkert, O.D.
Vice President



Arizona State Board of Optometry
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Executive Director

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FINAL MINUTES
NOVEMBER 19, 2004 BOARD MEETING

Board Members

Robert J. Maynard, O.D., President
Robert B. Pinkert, O.D., Vice President
Caroline Griego, O.D.
Christina M. Sorenson, O.D.
Curtis R. Winkler, M.D.
Lawrence Ponemon, PhD

Staff:

Jack Confer, Executive Director
Margaret Whelan, Licensing Administrator

Legal Counsel:

Blair Driggs, Assistant Attorney General

A. CALL TO ORDER: Dr. Maynard

Dr. Maynard called the meeting to order at 9:07 a.m.

B. ROLL CALL: Ms. Whelan

Board Members Present: Robert J. Maynard, O.D., President
Caroline Griego, O.D.
Robert B. Pinkert, O.D., Vice President
Christina M. Sorenson, O.D.
Curtis Winkler, M.D.
Lawrence Ponemon, PhD (Dr. Ponemon arrived to meeting via phone at 9:07 a.m.)

Board Members Absent: None

Legal Counsel Present: Blair Driggs, Assistant Attorney General

Staff Present: Jack Confer, Executive Director
Margaret Whelan, Licensing Administrator

C. PRESIDENT'S REPORT:

Dr. Maynard thanked staff for work in getting digital board books implemented.

D. CAC/ARBO REPORT

Dr. Sorenson reported on the CAC seminar.

D. ADMINISTRATIVE LAW JUDGE DECISION:

1. William F. Agnone, O.D., Hearing on License Denial, Docket No. 04-200423-OBA

Mr. Driggs, appearing as an advocate for the State of Arizona, summarized the case and recommendation from the Office of Administrative Hearings. He asked the Board to review the report and uphold its original decision.

MOTION: Dr. Pinkert moved to adopt finding of facts, conclusions of law and recommendation of the office of administrative hearings. Dr. Sorenson seconded motion.

	Vote	Caroline Griego, O.D.	Robert Maynard, O.D.	Lawrence Ponemon Public Member	Curtis Winkler, M.D.	Robert Pinkert, O.D.	Christina Sorenson, O.D.
YES	6	X	X	X	X	X	X
NO	0						
ABSTAIN	0						
ABSENT	0						

VOTE: Motion passes 6-0.

E. INFORMAL INTERVIEW:

2. Donald Sanfilippo, O.D., IR#200435

Dr. Sorenson summarized the case and recommended the Board to continue probation for six more months.

MOTION: Dr. Pinkert moved to continue probation for an additional six months. Motion failed for lack of a second.

SECOND MOTION: Dr. Pinkert moved to dismiss the case. Motion failed for lack of a second.

THIRD MOTION: Dr. Griego moved to issue letter of concern for failure to maintain complete and legible patient records and failing to conduct or measure intraocular pressures as required.

Dr. Pinkert seconded the motion.

	Vote	Caroline Griego, O.D.	Robert Maynard, O.D.	Lawrence Ponemon Public Member	Curtis Winkler, M.D.	Robert Pinkert, O.D.	Christina Sorenson, O.D.
YES	6	X	X	X	X	X	X

NO	0						
ABSTAIN	0						
ABSENT	0						

VOTE: Motion passed 6-0.

E. REVIEW, DISCUSSION AND VOTE ON INVESTIGATION REVIEWS/COMPLAINTS:

3. ASBOO vs. Wal-Mart Stores, Inc., IR#200401

Mr. Confer summarized the case and asked the Board to dismiss the case due to lack of violation of the optometry practice act.

MOTION: Dr. Pinkert moved to dismiss the case. Dr. Maynard seconded motion.

	Vote	Caroline Griego, O.D.	Robert Maynard, O.D.	Lawrence Ponemon Public Member	Curtis Winkler, M.D.	Robert Pinkert, O.D.	Christina Sorenson, O.D.
YES	6	X	X	X	X	X	X
NO	0						
ABSTAIN	0						
ABSENT	0						

VOTE: Motion passed 6-0.

4. ASBOO vs. Eye Glass World, IR#200405

Mr. Confer summarized the case and asked the Board to dismiss the case due to lack of violation of the optometry practice act.

MOTION: Dr. Sorenson moved to dismiss the case. Dr. Pinkert seconded motion.

	Vote	Caroline Griego, O.D.	Robert Maynard, O.D.	Lawrence Ponemon Public Member	Curtis Winkler, M.D.	Robert Pinkert, O.D.	Christina Sorenson, O.D.
YES	5	X	X		X	X	X
NO	0						
ABSTAIN	0						
ABSENT	1			X			

VOTE: Motion passed 5-0.

5. ASBOO vs. Vincent G. Sanchez, O.D., IR#200419

Dr. Maynard summarized the case and asked the Board to issue a letter of concern for improper use of prescription authority.

MOTION: Dr. Pinkert moved to issue a letter of concern for improper use of prescription authority pursuant to A.R.S. §32-1743(13). Dr. Sorenson seconded motion.

	Vote	Caroline Griego, O.D.	Robert Maynard, O.D.	Lawrence Ponemon Public Member	Curtis Winkler, M.D.	Robert Pinkert, O.D.	Christina Sorenson, O.D.
YES	6	X	X	X	X	X	X
NO	0						
ABSTAIN	0						
ABSENT	0						

VOTE: Motion passed 6-0

6. T.L. vs. Paul Viglotti, O.D., IR#200429

Dr. Winkler summarized the case and asked the Board to dismiss the case due to lack of violation of the optometry practice act.

MOTION: Dr. Sorenson moved to dismiss the case. Dr. Pinkert seconded motion.

	Vote	Caroline Griego, O.D.	Robert Maynard, O.D.	Lawrence Ponemon Public Member	Curtis Winkler, M.D.	Robert Pinkert, O.D.	Christina Sorenson, O.D.
YES	6	X	X	X	X	X	X
NO	0						
ABSTAIN	0						
ABSENT	0						

VOTE: Motion passed 6-0.

7. ASBOO vs. New Image Lasik Center, IR#200431

Mr. Confer summarized the case and asked the Board to dismiss the case due to lack of violation of the optometry practice act.

MOTION: Dr. Sorenson moved to dismiss the case. Dr. Maynard seconded motion.

	Vote	Caroline Griego, O.D.	Robert Maynard, O.D.	Lawrence Ponemon Public Member	Curtis Winkler, M.D.	Robert Pinkert, O.D.	Christina Sorenson, O.D.
YES	6	X	X	X	X	X	X
NO	0						
ABSTAIN	0						

ABSENT	0						
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VOTE: Motion passed 6-0.

8. ASBOO vs. Brian Soto & Faketickers.com, IR#200439

Mr. Confer summarized the case and asked the Board issue a cease and desist order to owner of the company and the internet website company.

MOTION: Dr. Sorenson moved to issue cease and desist order for 30 days and hold hearing at next meeting. Dr. Griego seconded motion.

VOTE: Motion passed 5-0.

9. P.C. vs. Selvin R. Gnanakkan, IR#200433

Dr. Maynard summarized the case and asked the Board to issue a letter of concern based on R4-21-303 (A)(6).

MOTION: Dr. Pinkert moved to dismiss the case due to lack of violation of the optometry act. Dr. Sorenson seconded motion.

	Vote	Caroline Griego, O.D.	Robert Maynard, O.D.	Lawrence Ponemon Public Member	Curtis Winkler, M.D.	Robert Pinkert, O.D.	Christina Sorenson, O.D.
YES	5	X		X	X	X	X
NO	1		X				
ABSTAIN	0						
ABSENT	0						

VOTE: Motion passed 5-1.

10. W.Y. vs. Michael C. Pittelli, O.D., IR#200436

Dr. Sorenson summarized the case and recommended the Board dismiss the case due to lack of violation of the optometry practice act and forward complaint to the Board of Dispensing Opticians.

MOTION: Dr. Pinkert moved to dismiss the case and refer to Dispensing Opticians Board. Dr. Griego seconded motion.

	Vote	Caroline Griego, O.D.	Robert Maynard, O.D.	Lawrence Ponemon Public Member	Curtis Winkler, M.D.	Robert Pinkert, O.D.	Christina Sorenson, O.D.
YES	5	X	X	X	X		X
NO	0						

ABSTAIN	0						
ABSENT	1					X	

VOTE: Motion passed 5-0.

11. M.D. vs. Lawrence R. Stern, O.D., IR#200437

Dr. Ponemon summarized the case and asked the Board to dismiss the case due to lack of violation of the optometry practice act.

MOTION: Dr. Winkler moved to dismiss the case. Dr. Pinkert seconded motion.

	Vote	Caroline Griego, O.D.	Robert Maynard, O.D.	Lawrence Ponemon Public Member	Curtis Winkler, M.D.	Robert Pinkert, O.D.	Christina Sorenson, O.D.
YES	5		X	X	X	X	X
NO	0						
ABSTAIN	1	X					
ABSENT	0						

VOTE: Motion passed 5-0. 1 abstention.

12. K.O. vs. Robert L. Yackey, M.D., IR#200440

Mr. Confer summarized the case and informed the Board that he has already referred the case on to the Arizona Medical Board as it is out of our jurisdiction.

MOTION: Dr. Pinkert moved to dismiss the case. Dr. Griego seconded motion.

	Vote	Caroline Griego, O.D.	Robert Maynard, O.D.	Lawrence Ponemon Public Member	Curtis Winkler, M.D.	Robert Pinkert, O.D.	Christina Sorenson, O.D.
YES	5	X	X	X	X		X
NO	0						
ABSTAIN	0						
ABSENT	1					X	

VOTE: Motion passed 5-0.

13. ASBOO vs. David J. Anderson, IR#200442

Mr. Confer summarized the case and asked the Board if they had any concerns about public health, safety and welfare and to dismiss without prejudice.

MOTION: Dr. Pinkert moved to dismiss the case without prejudice. Dr. Sorenson seconded motion.

	Vote	Caroline Griego, O.D.	Robert Maynard, O.D.	Lawrence Ponemon Public Member	Curtis Winkler, M.D.	Robert Pinkert, O.D.	Christina Sorenson, O.D.
YES	5	X	X		X	X	X
NO	0						
ABSTAIN	0						
ABSENT	1			X			

VOTE: Motion passed 5-0.

F. REVIEW, DISCUSSION AND POSSIBLE VOTE REGARDING COMPLIANCE WITH PRIOR BOARD ORDERS:

14. Contact Lens Etc & American Lens Corporation, IR#200259

Mr. Confer summarized the case and informed the Board that the company appears to be out of business as mail has come back unclaimed and the website is not accessible.

15. Vincent G. Sanchez, IR#200422

Mr. Confer summarized the case and informed the Board that the Dr. is in compliance but asked the Board to issue a letter of concern for improper use of prescription authority.

MOTION: Dr. Pinkert moved to issue a letter of concern for improper use of prescription authority pursuant to A.R.S. §32-1743(13). Dr. Sorenson seconded motion.

	Vote	Caroline Griego, O.D.	Robert Maynard, O.D.	Lawrence Ponemon Public Member	Curtis Winkler, M.D.	Robert Pinkert, O.D.	Christina Sorenson, O.D.
YES	6	X	X	X	X	X	X
NO	0						
ABSTAIN	0						
ABSENT	0						

VOTE: Motion passed 6-0

G. REVIEW, DISCUSSION, AND POSSIBLE ACTION ON APPROVAL OF CONTINUING EDUCATION AS PROVIDED BY A.R.S. § 32-1704 (D) and A.A.C. R4-21-208.

	Continuing Education	Date	No. of hours requested
a.	Colorado Optometric Assoc.-Snowmass 2004 Congress	7/8-7/11/04	20 Regular
b.	Southern AZ Optometric Assoc.-The Amazing Corner/Wavefront Technology	10/13/04	2 Regular
c.	Barnet Dulaney Perkins Eye Center-New Clinical Concepts	10/16/04	3 Regular

MOTION: Dr. Sorenson moved to accept all CE as listed. Dr. Maynard seconded the motion.

VOTE: The motion passed 4-0. Dr. Pinkert recused.

H. REVIEW, DISCUSSION AND POSSIBLE BLOCK VOTE ON PENDING REGULAR LICENSE APPLICATIONS:

- 16. Chemelekov, Alexander
- 17. Sananikone, Lou

MOTION: Dr. Pinkert moved to approve all above listed applicants. Dr. Maynard seconded the motion.

VOTE: The motion passed 5-0

I. REVIEW, DISCUSSION AND POSSIBLE BLOCK VOTE ON PENDING ENDORSEMENT LICENSE APPLICATIONS:

- 18. Chaar-Navarro, Miguel

Tab 18 was heard for informational purposes only and was not considered for licensure at this time. Therefore, no motion was entered.

- 19. Jaron, Chris
- 20. Kosanke, Edward
- 21. Melnyk, John

MOTION: Dr. Pinkert moved to approve all above listed applicants excluding Dr. Chaar-Navarro. Dr. Maynard seconded the motion.

VOTE: The motion passed 5-0

J. REVIEW, DISCUSSION AND POSSIBLE APPROVAL OF BOARD MEETING MINUTES.

- 22. August 20, 2004, Regular & Executive Session Meeting Minutes
- 23. September 17, 2004 Regular Meeting Minutes
- 24. October 28, 2004 Regular Meeting Minutes

MOTION: Dr. Griego moved to approve tab 22-24 with adjustment under tab 24 of the minutes. Dr. Sorenson seconded the motion.

VOTE: The motion passed 5-0.

K. EXECUTIVE DIRECTOR'S REPORT:

- 25. Draft Policy on Crime Reporting Bill, A.R.S. § 32-3208 (Possible Discussion & Vote)
- 26. Litigation Update: Nicholas D. Kowalczyk v. Arizona State Board of Optometry, Arizona Supreme Court No: CV04-0118-PR (Possible Discussion & Information)
- 27. Legislative Council 47th Legislature, 1st Regular Session Calendar Deadlines (Information Only)

28. Arizona State Retirement System Projected Contribution Rates (Possible Discussion)
29. Proposed Rules Status
30. Budget Report (Information Only)
Budget Summary Report
31. Proposed FY2006 and FY2007 Budget
32. Board Statistics (Information Only)
33. Summary of Investigative Reviews (Possible Discussion)
34. Board Correspondence
 - a. S.B. vs. Richard Glonek, O.D., IR#200428
 - b. New Image Lasik Center, IR#200432
35. Proposed ISA with AzGU for We Portal transactions (Possible Discussion & Vote)

Mr. Confer reported on tabs 25-35 inclusive.

MOTION: Dr. Sorenson moved to accept the Draft Policy on the Crime reporting Bill. Dr. Winkler seconded the motion.

VOTE: Motion passed 5-0

L. CALL TO PUBLIC:

Dr. Maynard made a call to the public at 11:48 AM. Nobody was present to address the Board during the call to public.

MOTION: Dr. Pinkert moved to adjourn the meeting at 11:50 AM. Dr. Sorenson seconded the motion.

VOTE: The motion passed 5-0.

END OF MINUTES:

Jack Confer, Executive Director

Date